

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.

Rulemaking 13-11-005
(Filed November 14, 2013)

**DECISION GRANTING INTERVENOR COMPENSATION TO NATURAL RESOURCES DEFENSE COUNCIL FOR SUBSTANTIAL CONTRIBUTION TO
DECISION 15-10-028**

Intervenor: Natural Resources Defense Council (NRDC)	For Contribution to Decision (D.) 15-10-028
Claimed: \$76,602.00	Awarded: \$77,308.00
Assigned Commissioner: Carla J. Peterman	Assigned ALJ: Todd O. Edmister

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	This decision: 1) adopts “aggressive yet achievable” energy-saving goals for ratepayer-funded energy efficiency (EE) program portfolios (portfolios) for 2016 and beyond; 2) establishes a “Rolling Portfolio” process for regularly reviewing and revising portfolios; and 3) updates various EE program portfolio metrics, including Database of Energy Efficient Resources values, effective January 1, 2016.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	December 11, 2013	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	January 10, 2013	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.14-07-002	Verified
6. Date of ALJ ruling:	December 18, 2014	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.14-07-002	Verified
10. Date of ALJ ruling:	December 18, 2014	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.15-10-028	Verified
14. Date of issuance of Final Order or Decision:	October 28, 2015	Verified
15. File date of compensation request:	December 28, 2015	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
1	This claim covers all items referenced in the decision (e.g., Goals and potential study, rolling portfolio, DEER adoption) but does not yet cover items deferred to the following decision (e.g., workshop 3, activity related to AB 802 implementation, etc.). NRDC will claim time for those activities upon conclusion of the expected decision in Q2 2016.	The Commission accepts NRDC’s assertion.

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).**

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
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<p><i>(B) General rolling portfolio process, including initial advocacy to inform scope, full working group meetings, discussions re: overall proposal that was not easily broken up by subgroup</i></p>	<ul style="list-style-type: none"> • NRDC worked with parties to develop joint party letters (attached to this claim) that helped inform and design the focus of the proceeding. These letters (7/3/13, 9/18/13, 12/18/14) contributed to the scope of the proceeding as outlined in the following documents. <ul style="list-style-type: none"> ○ 11/21/13, section 3.2 pp.8-11 <i>OIR Rulemaking Concerning EE Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues</i> ○ 1/22/14, p.2 <i>AC Ruling and Scoping Memorandum Regarding 2015 Portfolios</i> ○ 2/24/15, through the scope <i>AC and ALJ Ruling and Scoping Memorandum Regarding Implementation of EE “Rolling Portfolios”</i> • NRDC worked with parties to develop the rolling portfolio approach to planning throughout various sets of presentations (at 3/9-3/10 workshop) and comments (identified below). <ul style="list-style-type: none"> ○ D.15-10-028, p.43 “We largely adopt the joint proposal’s overall structure.” ○ 1/26/15 – <i>PHC Statement of NRDC</i> ○ 4/6/15 – <i>NRDC Response to the ALJ’s Ruling Regarding Comments on Phase II Workshop I</i> ○ 5/26/15 – <i>NRDC Comments on Commission Staff’s Rolling Portfolio White Paper</i> <p>9/8/15 – <i>NRDC Opening Comments on the PD re EE Goals for 2016 and</i></p>	<p>Accepted.</p>
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	<i>Beyond and EE Rolling Portfolio Mechanics</i>	
<i>(C, E, F) Framework subgroup (e.g., adaptive management/how to refresh programs, business plans, etc.)</i>	<ul style="list-style-type: none"> NRDC worked with joint parties to develop the overall framework as presented at the CPUC 3/9/15 workshop and in comments. The Commission adopted much of the proposal to move to a Business Plan approach to program planning with modifications (D.15-10-028, section 3.2.3). The Commission modified the parties' proposal for funding and technical, but kept a substantive amount of the original contribution in the final version. Therefore, our submission contributed to the record and helped to develop the final decision (D.15-10-028 section 3.2.3.1). The following comments and presentations were submitted on C, E, F issue areas <ul style="list-style-type: none"> Session 1 – <i>Joint Parties' Proposal: Portfolio Review Process</i> Session 3 – <i>Joint Parties' Proposal: Reporting Requirements, Accounting, and Spending Oversight</i> Session 4 – <i>Joint Parties' Proposal: Technical Updates</i> Session 4.a – <i>Joint Parties' Proposal: Potential and Goals</i> Session 5 – <i>Joint Parties' Proposal: EM&V Processes</i> 1/26/15 – <i>PHC Statement of NRDC</i> 4/6/15 – <i>NRDC Response to the ALJ's Ruling Regarding Comments on Phase II</i> 	Accepted.

	<p><i>Workshop I</i></p> <ul style="list-style-type: none"> ○ 5/26/15 – NRDC Comments on Commission Staff's Rolling Portfolio White Paper ○ 9/8/15 – NRDC Opening Comments on the PD re EE Goals for 2016 and Beyond and EE Rolling Portfolio Mechanics 	
<i>(D) Stakeholder subgroup</i>	<ul style="list-style-type: none"> • NRDC led the stakeholder subgroup, conducted research on stakeholder engagement efforts across the country, including the northwest, Midwest, and northeast, and took the lead on developing the stakeholder presentation and comments. • While there were modifications, the Commission generally affirmed much of the parties' proposal in outlining responsibilities of the forthcoming coordinating committee (D.15-10-028 section 3.2.3.2). <ul style="list-style-type: none"> ○ <i>Session 2 – Joint Parties' Proposal: Stakeholder Engagement</i> ○ 1/26/15 – PHC Statement of NRDC ○ 4/6/15 – NRDC Response to the ALJ's Ruling Regarding Comments on Phase II Workshop I ○ 5/26/15 – NRDC Comments on Commission Staff's Rolling Portfolio White Paper <p>9/8/15 – NRDC Opening Comments on the PD re EE Goals for 2016 and Beyond and EE Rolling Portfolio Mechanics</p>	Accepted.
<i>(G) Peer Review Group and related activities</i>	<ul style="list-style-type: none"> • NRDC participated in substantive conversations, ensured the process was open and clear, as well as helped ensure a fair and transparent 	Accepted.

	process, the main intent of Peer Review Group.	
<i>(H) Potential Study/DEER - general improvements</i>	<ul style="list-style-type: none"> NRDC provided various comments on methodology and inputs (e.g., incorporating additional emerging technologies, behavioral programs, locational aspects of savings, correcting “implied discount rate”) as well as the need to move to a more transparent approach to technical estimates. Many of these issues were deferred to a later date but were substantive and added to the record. (D.15-10-028 section 3.1.4.2, p.22 & section 3.1.4.6, p.31) <ul style="list-style-type: none"> 4/6/15 p.35 NRDC <i>Response to the ALJ’s Ruling regarding Comments on Phase II Workshop I</i> 6/8/15 p.5-7 <i>Comments of the NRDC on Energy Efficiency Potential and Goals and DEER updates</i> <p>9/8/15 p. 14 NRDC <i>Opening Comments on the Proposed Decision re Energy Efficiency Goals for 2016 and Beyond and Energy Efficiency Rolling Portfolio Mechanics</i></p>	Accepted.
<i>(I) Potential Study – calibration</i>	<ul style="list-style-type: none"> NRDC argued that an uncalibrated potential is necessary to provide the Commission with the complete picture of efficiency opportunities, even if the decision is to use the calibrated version for setting energy saving goals. While the decision (D.15-10-028 section 3.1.4.1, p.18) does not ultimately adopt NRDC’s position, it does provide a discussion of the matter. NRDC’s comments were substantive even if they did not become incorporated into the current potential and goals study. <ul style="list-style-type: none"> 4/6/15 p.35 NRDC <i>Response to the ALJ’s Ruling regarding Comments on Phase II Workshop I</i> 	Accepted.

	<ul style="list-style-type: none"> ○ 6/8/15 p.4 <i>Comments of the NRDC on Energy Efficiency Potential and Goals and DEER updates</i> ○ 9/8/15 p. 13 <i>NRDC Opening Comments on the Proposed Decision re Energy Efficiency Goals for 2016 and Beyond and Energy Efficiency Rolling Portfolio Mechanics</i> 	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	Yes	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes.
c. If so, provide name of other parties: PG&E, SCG, SDG&E, SCE, TURN, ORA, MCE, Center for Sustainable Energy, Local Government Sustainable Energy Coalition, San Francisco Bay Area Regional Energy Network (BayREN), and Southern California Regional Energy Network.		Accepted.
d. Intervenor's claim of non-duplication: <p>NRDC's advocacy was not duplicative as we worked closely with nearly a dozen other parties to collaborate on a joint party proposal, presentation, and comments (PG&E, SCE, SDG&E, SCG, MCE, CSE, ORA, TURN, LGSEC, SoCalREN, BayREN). While it is difficult to separate out all time working on all aspects of the proposal, NRDC's work was undoubtedly unique. Our time claimed are for substantive contributions that were either additive or supplemental to other parties' drafting of the issue or led directly to the negotiations and therefore advancement of the overall effort of the joint parties' proposal for the rolling portfolio approach to program planning.</p> <p>All calls with other parties were focused on resolving key issues ahead of time and were kept as brief as possible. In addition, the hours claimed by NRDC are extremely conservative as it takes a substantial amount of time to work with multiple parties (who traditionally do not work together) to resolve issues in order to arrive at one cohesive substantive position and develop documents that all parties could be comfortable with presenting on or submitting.</p> <p>To ensure we were not duplicative and used our time wisely, we split issues per the attachment describing the rolling portfolio subgroups and divided responsibilities for</p>		Accepted.

<p>developing all documents (e.g., the proposal presentation for the March 2015 workshop, subsequent comments, etc.) thereby reducing the total writing and editing time required. We also shared summaries of key issues at hand, discussed initial responses, and resolved as many issues prior to submitting comments or presenting the proposal. No time was claimed for administrative functions or copy-editing related to joint comments.</p> <p>In addition, NRDC took steps to ensure no duplication of work within our organization by assigning specific issues, tasks, and workshops/meetings to one team member.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

<p>a. Intervenor's claim of cost reasonableness:</p> <p>NRDC consistently advocates for policies to maximize cost-effective procurement and use of clean energy resources, ensure that the benefits of clean energy resources are properly accounted for, and that policies and goals align to enable the utilities to use clean energy as their first energy resource choice (as required by California law). NRDC's continued focus in this and other proceedings is on policies that ensure a reliable, affordable, and environmentally sustainable energy resource portfolio that should have lasting benefits to customers.</p> <p>NRDC contributed substantially toward shaping the scope of this proceeding, the record building of key issues, establishing a collaborative, and was instrument to the development of the joint proposal for a rolling approach for portfolio planning that was ultimately adopted in large part in D.15-10-028. Moving toward a rolling portfolio approach to planning efficiency programs while also relying on a collaborative stakeholder engagement process is anticipated to reduce the amount of time and cost for implementing energy efficiency programs moving forward, while also reducing contention, increasing informal problem solving, and enabling more creativity and collaborative problem solving. For these reasons, NRDC's costs are reasonable.</p>	<p>CPUC Discussion</p> <p>Verified.</p>
<p>b. Reasonableness of hours claimed:</p> <p>The substantial contributions to Commission policy described above would not have been possible without the individual contributions of NRDC staff leads. We ensured reasonable amount of hours are claimed by assigning one person per major topic, with minimal time spent by other staff focused predominately on enhancing NRDC's substantive arguments. Lara Ettenson was the lead for all items pertaining to the rolling portfolio. Sierra Martinez led the potential study and goals effort. Peter Miller focused on the DEER update and was also available as a proxy for Ms. Ettenson and Mr. Martinez when necessary.</p> <p>The amounts claimed are further conservative for the following reasons: (1) No time is claimed for internal coordination, only for substantive policy development; (2) we do not claim time for substantive review by NRDC staff other than the active staff noted above, even though their expertise was critical to ensuring productive recommendations; and (3) we claim no time for travel or any other</p>	<p>Verified.</p>

<p>related fees nor do we claim time for Mr. Martinez's time on the intervenor compensation claim.</p> <p>In addition, the rates requested by NRDC are purposefully conservative and low on the ranges approved by the Commission, even though the levels of expertise of would justify higher rates. NRDC maintained detailed time records indicating the number of hours that were devoted to proceeding activities. All hours represent substantive work related to this proceeding.</p> <p>In sum, NRDC made numerous and significant contributions on behalf of environmental and customer interests, all of which required research and analysis. We took every effort to coordinate with other stakeholders to reduce duplication and increase the overall efficiency of the proceeding. Since our work was efficient, hours extremely conservative, and billing rates low, NRDC's request for compensation should be granted in full.</p>	
<p>c. Allocation of hours by issue:</p> <p>A - 3% B - 33% C - 16% D - 19% E - 7% F - 11% G - 4% H - 7% I - 1%</p>	<p>Verified.</p> <p>NRDC's Cost Allocation categories are broken-down as follows:</p> <p>A. All Issues B. General rolling portfolio process C. Framework D. Stakeholder F. Funding F. Technical G. Peer Review Group and related activities. H. Potential Study/DEER I. Potential Study calibration.</p>

B. Specific Claim:*

Claimed						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hour s	Rate \$	Total \$
Laura Ettenson	2013	50.75	\$170	D.15-10-041	\$8,627.50	50.75	\$170	\$8,627.50
Laura Ettenson	2014	148.25	\$175	D.15-10-041	\$25,943.75	148.25	\$175	\$25,943.75

Laura Ettenson	2015	187.50	\$180	D.15-10-041 D.08-04-010 p.8	\$33,750.00	187.50	\$185	\$34,687.50
Sierra Martinez	2014	11.70	\$235	D.15-06-055	\$2,749.50	11.70	\$235	\$2,749.50
Sierra Martinez	2015	12.10	\$300	Res ALJ-308	\$3,630.00	12.10	\$235 ¹	\$2,843.50
Peter Miller	2015	9.75	\$190	D.15-06-060	\$1,657.50	9.75	\$195 ²	\$1,901.25
Subtotal:\$76,602.00						Subtotal: \$76,753.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Laura Ettenson	2015	6	\$90	D.15-10-041; Resolution ALJ-308	\$540.00	6	\$92.50	\$555.00
Subtotal: \$540.00						Subtotal: \$555.00		
TOTAL REQUEST: \$76,602.00						TOTAL AWARD: \$77,308.00		
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ³		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Sierra Martinez		December 4, 2008		260510		No.		

D. CPUC Disallowances and Adjustments:

Item	Reason
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¹ See Decision 15-06-055.

² Miller has an authorized 2013 rate of \$190 per D.15-06-060. In calculating Miller's 2015 hourly rate, we apply the 2014 COLA of 2.58% authorized by ALJ-303. As such, the rate for Miller in 2015 is calculated to be \$195 per hour.

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Laura Ettenson hourly rate.	NRDC requests a 2015 hourly rate of \$180 for Ettenson. Based on Ettenson's 7-12 years of experience as an expert, we authorize a 5% step increase, and round to the rate of \$185 per hour.
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PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6©(6))?	Yes.

FINDINGS OF FACT

1. NRDC has made a substantial contribution to D.15-10-028.
2. The requested hourly rates for NRDC's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$77,308.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Natural Resources Defense Council shall be awarded \$77,308.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company shall pay Natural Resources Defense Council their respective shares of the award, based on their California-jurisdictional electric and gas revenues for the 2015 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 12, 2016, the 75th day after the filing of Natural Resources Defense Council's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, 2016, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1510028		
Proceeding(s):	R1311005		
Author:	ALJ Edmister		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Natural Resources Defense Council (NRDC)	12/28/2015	\$76,602.00	\$77,308.00	N/A	Change in hourly rate(s).

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Lara	Ettenson	Expert	NRDC	\$170	2013	\$170
Lara	Ettenson	Expert	NRDC	\$175	2014	\$175
Lara	Ettenson	Expert	NRDC	\$180	2015	\$185
Sierra	Martinez	Attorney	NRDC	\$235	2014	\$235
Sierra	Martinez	Attorney	NRDC	\$300	2015	\$235
Peter	Miller	Expert	NRDC	\$190	2015	\$195

(END OF APPENDIX)